BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of: PARENT ON BEHALF OF STUDENT, v. THE NEW SCHOOL OF SAN FRANCISCO.	OAH Case No. 2017060552 ORDER DENYING MOTION FOR STAY PUT

On October 24, 2017, The New School of San Francisco (New School) filed a motion for stay put. On October 25, 2017, Mother filed an opposition arguing that the placement offered by District is unsafe for Student.

APPLICABLE LAW

Until due process hearing procedures are complete, a special education student is entitled to remain in his or her current educational placement, unless the parties agree otherwise. (20 U.S.C. § 1415(j); 34 C.F.R. § 300.518(a) (2006); Ed. Code, § 56505 subd. (d).) This is referred to as "stay put." For purposes of stay put, the current educational placement is typically the placement called for in the student's individualized education program, which has been implemented prior to the dispute arising. (*Thomas v. Cincinnati Bd. of Educ.* (6th Cir. 1990) 918 F.2d 618, 625.)

In California, "specific educational placement" is defined as "that unique combination of facilities, personnel, location or equipment necessary to provide instructional services to an individual with exceptional needs," as specified in the IEP. (Cal. Code Regs. tit. 5, § 3042, subd. (a).)

DISCUSSION

Mother filed this action with the Office of Administrative Hearings on behalf of Student on June 12, 2017, naming New School. Student alleges New School denied Student a free appropriate public education by failing to provide Student with: a safe place to calm down; transportation; behavior support; and homework. The complaint also alleges New School impeded Mother's ability to participate in the IEP process by failing to provide her with information about incidents when Student was physically restrained at school.

According to New School, Mother is denying Student a FAPE because Student has not attended school since October 3, 2017. New School also contends Mother demanded New School provide Student with an alternative placement, and she refuses to bring him to school until one is offered.

New School's motion for stay put seeks an order compelling Student to attend an educational placement that Mother contends is not safe for Student, which is the basis for the due process matter. Stay put entitles a student to remain in his or her current educational placement while a due process complaint is pending. It does not entitle a local educational agency to compel a student to attend the educational placement in dispute in the due process proceeding while it is pending.

ORDER

The motion for stay put is denied.

IT IS SO ORDERED.

DATE: November 2, 2017

DocuSigned by:
Christine Arden
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CHRISTINE ARDEN
Administrative Law Judge
Office of Administrative Hearings